

**§91.604 Test orders.**

(a) A test order addressed to the manufacturer is required for any testing under this subpart.

(b) The test order is signed by the Assistant Administrator for Air and Radiation or his or her designee. The test order must be delivered in person by an EPA enforcement officer or EPA authorized representative to a company representative or sent by registered mail, return receipt requested, to the manufacturer's representative who signed the application for certification submitted by the manufacturer, pursuant to the requirements of the applicable section of subpart B of this part. Upon receipt of a test order, the manufacturer must comply with all of the provisions of this subpart and instructions in the test order.

*(c) Information included in test order.*

(1) The test order will specify the engine family to be selected for testing, the manufacturer's engine assembly plant or associated storage facility or port facility (for imported engines) from which the engines must be selected, the time and location at which engines must be selected, and the procedure by which engines of the specified family must be selected. The test order may specify the configuration to be audited and/or the number of engines to be selected per day. Engine manufacturers are required to select a minimum of four engines per day unless an alternate selection procedure is approved pursuant to §91.606(a), or unless total production of the specified configuration is less than four engines per day. If total production of the specified configuration is less than four engines per day, the manufacturer selects the actual number of engines produced per day.

(2) The test order may include alternate families to be selected for testing at the Administrator's discretion in the event that engines of the specified family are not available for testing because those engines are not being manufactured during the specified time or are not being stored at the specified assembly plant, associated storage facilities, or port of entry.

(3) If the specified family is not being manufactured at a rate of at least two engines per day in the case of manufac-

turers specified in 40 CFR 89.607(g)(1), or one engine per day in the case of manufacturers specified in 40 CFR 89.607(g)(2), over the expected duration of the audit, the Assistant Administrator or her or his designated representative may select engines of the alternate family for testing.

(4) In addition, the test order may include other directions or information essential to the administration of the required testing.

(d) A manufacturer may submit a list of engine families and the corresponding assembly plants, associated storage facilities, or (in the case of imported engines) port facilities from which the manufacturer prefers to have engines selected for testing in response to a test order. In order that a manufacturer's preferred location be considered for inclusion in a test order for a particular engine family, the list must be submitted prior to issuance of the test order. Notwithstanding the fact that a manufacturer has submitted the list, the Administrator may order selection at other than a preferred location.

(e) Upon receipt of a test order, a manufacturer must proceed in accordance with the provisions of this subpart.

**§91.605 Testing by the Administrator.**

(a) The Administrator may require by test order under §91.604 that engines of a specified family be selected in a manner consistent with the requirements of §91.606 and submitted to the Administrator at the place designated for the purpose of conducting emission tests. These tests will be conducted in accordance with §91.607 to determine whether engines manufactured by the manufacturer conform with the regulations with respect to which the certificate of conformity was issued.

(b) *Designating official data.* (1) Whenever the Administrator conducts a test on a test engine or the Administrator and manufacturer each conduct a test on the same test engine, the results of the Administrator's test comprise the official data for that engine.

(2) Whenever the manufacturer conducts all tests on a test engine, the manufacturer's test data is accepted as the official data, provided that if the

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Administrator makes a determination based on testing conducted under paragraph (a) of this section that there is a substantial lack of agreement between the manufacturer's test results and the Administrator's test results, no manufacturer's test data from the manufacturer's test facility will be accepted for purposes of this subpart.

(c) If testing conducted under § 91.604 is unacceptable under paragraph (b)(2) of this section, the Administrator must:

(1) Notify the manufacturer in writing of the Administrator's determination that the test facility is inappropriate for conducting the tests required by this subpart and the reasons therefor; and

(2) Reinstate any manufacturer's data upon a showing by the manufacturer that the data acquired under § 91.604 was erroneous and the manufacturer's data was correct.

(d) The manufacturer may request in writing that the Administrator reconsider the determination in paragraph (b)(2) of this section based on data or information which indicates that changes have been made to the test facility and these changes have resolved the reasons for disqualification.

### § 91.606 Sample selection.

(a) Engines comprising a test sample will be selected at the location and in the manner specified in the test order. If a manufacturer determines that the test engines cannot be selected in the manner specified in the test order, an alternative selection procedure may be employed, provided the manufacturer requests approval of the alternative procedure prior to the start of test sample selection, and the Administrator approves the procedure.

(b) The manufacturer must produce and assemble the test engines of the family selected for testing using its normal production and assembly process for engines to be distributed into commerce. If, between the time the manufacturer is notified of a test order and the time the manufacturer finishes selecting test engines, the manufacturer implements any change(s) in its production or assembly processes, including quality control, which may reasonably be expected to affect the

emissions of the engines selected, then the manufacturer must, during the audit, inform the Administrator of such changes. If the test engines are selected at a location where they do not have their operational and emission control systems installed, the test order will specify the manner and location for selection of components to complete assembly of the engines. The manufacturer must assemble these components onto the test engines using normal assembly and quality control procedures as documented by the manufacturer.

(c) No quality control, testing, or assembly procedures will be used on the test engine or any portion thereof, including parts and subassemblies, that have not been or will not be used during the production and assembly of all other engines of that family, unless the Administrator approves the modification in production or assembly procedures pursuant to paragraph (b) of this section.

(d) The test order may specify that an EPA enforcement officer(s) or authorized representative(s), rather than the manufacturer, select the test engines according to the method specified in the test order.

(e) The order in which test engines are selected determines the order in which test results are to be used in applying the sampling plan in accordance with § 91.608.

(f) The manufacturer must keep on hand all untested engines, if any, comprising the test sample until a pass or fail decision is reached in accordance with § 91.608(e). The manufacturer may ship any tested engine which has not failed the requirements as set forth in § 91.608(b). However, once the manufacturer ships any test engine, it relinquishes the prerogative to conduct retests as provided in § 91.607(i).

### § 91.607 Test procedures.

(a)(1) For marine SI engines subject to the provisions of this subpart, the prescribed test procedures are the test procedures as specified in subpart E of this part.

(2) The Administrator may, on the basis of a written application by a manufacturer, prescribe test procedures other than those specified in